

Missouri Clean Water Commission Meeting  
Department of Natural Resources  
East Elm Street Conference Center  
1739 East Elm Street  
Jefferson City, Missouri

October 18, 2018

**Proposed Amendments and Rescissions of Order of Rulemaking  
10 CSR 20-4, Grants**

**Issue:** The Department has finalized its recommendation on the proposed 10 CSR 20-4, Grants. The proposed changes to this chapter include amendments to five rules and the proposed rescission of two rules. The Department is requesting the Commission adopt the following orders of rulemaking.

- 10 CSR 20-4.010 - Construction Grant and Loan Priority System - rescission
- 10 CSR 20-4.030 - Grants for Sewer Districts and Certain Small Municipal Sewer Systems
- 10 CSR 20-4.040 - State Revolving Fund General Assistance Regulation
- 10 CSR 20-4.041 - Direct Loan Program
- 10 CSR 20-4.042 - Leveraged Loan Program - rescission
- 10 CSR 20-4.050 - Environmental Review
- 10 CSR 20-4.061 - Storm Water Grant and Loan Program

**Background:** Under Executive Order 17-03, all state agencies are working to reduce Red Tape in Missouri. Red tape refers to regulations or other government rules or processes that unnecessarily burden individuals and businesses while doing little to protect or improve public health, safety, and our natural resources. The Department has determined that changes to 10 CSR 20-4, Grants, are necessary after public notice, hearing, and comment.

The proposed changes to 10 CSR 20-4 Grants, were published in the July 16, 2018 Missouri Register. The public comment period for the proposed rulemaking was from July 16 to August 23, 2018. A public hearing was held for the proposed rules on August 15, 2018 and changes were made to the appropriate proposed rules as a result of comments received during the public comment period.

As a result of comments received, the following changes have been made:

10 CSR 20-4.030, Grants for Sewer Districts and Certain Small Municipal Sewer Systems, language was changed in Section (2), Subsection (E) to retain the word “shall.” Language was added to Section (5) for clarification when a state grant financed facility is sold. Additionally, in Section 2, Subsection (D) “or” was removed to make the sentence flow correctly.

10 CSR 20-4.040, State Revolving Fund General Assistance Regulation, language was added to the new subsections (B) and (C) for further clarification. Also, changes were made to correct a typographical and grammatical errors and to add a word that had been inadvertently left out.

10 CSR 20-4.041, Direct Loan Program, language was changed in Section (5) and Section (6), Subsection (A) to retain the word “shall.” Additionally, changes were made to correct a typographical and grammatical error in Section (8) and Section (9).

10 CSR 20-4.050, Environmental Review, language was changed in Section (4)(B)2 for clarification and in Section (5), Subsection (A) to correct a grammatical error.

10 CSR 20-4.061, Storm Water Grant and Loan Program, Section (5), Subsection (B), Paragraph 12 was deleted. Also, grammatical errors was corrected in Section (14).

**Recommended Action:** The Department recommends the Commission adopt the Order of Rulemaking for 10 CSR 20-4, Grants, as proposed.

**Suggested Motion Language:** The Department suggests the Commission motion to adopt the Order of Rulemaking for 10 CSR 20-4, Grants, as proposed.

**List of Attachments:**

- 10 CSR 20-4.010 - Construction Grant and Loan Priority System, Order of Rulemaking
- 10 CSR 20-4.030 - Grants for Sewer Districts and Certain Small Municipal Sewer Systems, Order of Rulemaking
- 10 CSR 20-4.040 - State Revolving Fund General Assistance Regulation, Order of Rulemaking
- 10 CSR 20-4.041 - Direct Loan Program, Order of Rulemaking
- 10 CSR 20-4.042 - Leveraged Loan Program, Order of Rulemaking
- 10 CSR 20-4.050 - Environmental Review, Order of Rulemaking
- 10 CSR 20-4.061 - Storm Water Grant and Loan Program, Order of Rulemaking

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 20—Clean Water Commission**  
**Chapter 4—Grants**

**ORDER OF RULEMAKING**

By the authority vested in the Clean Water Commission under section 644.026, RSMo. 2016, the Commission rescinds a rule as follows:

**10 CSR 20-4.010 Construction and Loan Priority System is rescinded.**

A notice of the proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1596). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the Department's Financial Assistance Center (FAC) provided testimony on the proposed rescission. No comments were received.

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**Division 20—Clean Water Commission**  
**Chapter 4—Grants**

**ORDER OF RULEMAKING**

By the authority vested in the Clean Water Commission under section 644.026, RSMo. 2016, the Commission amends a rule as follows:

**10 CSR 20-4.030 Grants for Sewer Districts and Certain Small Municipal Sewer Systems  
is amended.**

A notice of the proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1596-1598). Changes to the proposed amendment are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the Department's Financial Assistance Center staff provided testimony on the proposed amendment. The Department received one (1) comment at the Public Hearing, one (1) typographical error was found by staff and one (1) comment was received during the public comment period.

COMMENT #1: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the red tape reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in Section (2), Subsection (E) to retain the word "shall" in order to clarify the Department's obligation.

COMMENT #2: Staff identified a typographical error in Section (2), Subsection (D). The language was incorrectly proposed as "640.620, RSMo, or".

RESPONSE AND EXPLANATION OF CHANGE: Staff is correcting this error with the language “section 640.620, RSMo,”

COMMENT #3: Ms. Lacey Hirschvogel, with the Missouri Public Utility Alliance (MPUA), commented on new subsection (5). She questioned why the repayment schedule would be based upon a thirty (30) year depreciation if a community elected to transfer ownership of a financed facility. Ms. Hirschvogel also explained that this change places additional financial burdens on grant recipients subject to this provision and does not reduce regulatory burden.

RESPONSE AND EXPLANATION OF CHANGE: The Department proposed this new subsection to clarify the procedures for when a state grant financed facility is sold. However, the proposed language does not fully clarify these procedures, as noted by the comment. Therefore, the Department is adding the language from the comment, along with additional language not specified in the comment, to further clarify the procedures. A change has been made to this rule as a result of this comment.

10 CSR 20-4.030 Grants for Sewer Districts and Certain Small Municipal Sewer Systems

10 CSR 20-4.030(2)(D) Grants will be the lesser of the per connection amount specified in section 640.620, RSMo, fifty percent (50%) of the eligible costs of the improvements, or five hundred thousand dollars (\$500,000).

10 CSR 20-4.030(2)(E) Grants shall be used for the following costs:

10 CSR 20-4.030(5) If at any time after initiation of operations of the project, the wastewater treatment works funded under this rule, or any part thereof, is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a straight-line depreciation based on the original costs of the facilities being sold, the original loan repayment period or a 20-year straight line depreciation schedule in the event of grant only funds, and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership of the facility(ies).

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 20—Clean Water Commission**  
**Chapter 4—Grants**

**ORDER OF RULEMAKING**

By the authority vested in the Clean Water Commission under section 644.026, RSMo. 2016, the Commission amends a rule as follows:

**10 CSR 20-4.040 Clean Water State Revolving Fund General Assistance Regulation  
is amended.**

A notice of the proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1598-1609). Changes to the proposed amendment are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the Department's Financial Assistance Center (FAC) staff provided testimony on the proposed amendment. One (1) comment was made at the public hearing, three (3) comments were received during the public comment period and two (2) comments were received from staff.

COMMENT #1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the Department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: Department staff identified an error of the word "major" being omitted from Section (2), Subsection (F), in the definition of initiation of operations.

RESPONSE AND EXPLANATION OF CHANGE: The Department is modifying the language to provide clarity to the rule.

COMMENT #3: Department staff identified typographical and grammatical errors in the following sections:

- (7)(C) “40 CFR 35.3135” should be “40 CFR 35.3145”;
- (14) “occurs” should be “occur”;
- (16) “user charge,” should be “user charge” and “User charge,” should be “User charge”;
- (17)(H) “290.210-290.340” should be “sections 290.210 to 290.340”;
- (21)(B)(19) “publicly-owned” should be “publicly owned”;
- (21)(B)(20) “assessments” should be “assessment” and “long term” should be “long-term”;
- (26) “RMSo.” should be “RSMo”;
- (27) “fifteen pages” should be “fifteen (15) pages”; and
- (27)(C) “and,” should be “and”.

RESPONSE AND EXPLANATION OF CHANGE: The Department is correcting the errors.

COMMENT #4: Comment from Ms. Lacey Hirschvogel, Missouri Public Utility Alliance (MPUA). Ms. Hirschvogel commented that the provision in new subsection (25)(B) stating “Once the loan repayment is complete, ownership of facilities, equipment, and real property purchased under the program with a current value in excess of five thousand dollars (\$5000) may be transferred only with written permission of the department” provides an administrative burden on both the Department and borrowers with limited ability to track and enforce this requirement. Ms. Hirschvogel further requested either (i) this provision be deleted or (ii) the phrase “Once loan repayment is complete”, be replaced with “During the loan repayment term.”

RESPONSE AND EXPLANATION OF CHANGE: Staff have researched this matter and agree with the suggested revision. Similar language is included in the Purchase Agreement for recipients of Clean Water State Revolving Fund (CWSRF) loans. The provision in the Purchase Agreement about selling the wastewater treatment system is moot once the loan is paid back in full. Therefore, Department permission is unnecessary. A change has been made as a result of this comment.

COMMENT #5: Ms. Hirschvogel, with MPUA, commented on the new subsection (25)(C). She questioned why the repayment schedule would be based on a 30-year depreciation schedule if the CWSRF financed facility was sold. Ms. Hirschvogel commented this change places additional financial burdens on grant recipients subject to this provision and it does not reduce regulatory burden. She further stated that many projects may not have a 30-year useful life. Ms. Hirschvogel requested this provision be modified to use a depreciation schedule of the longer of (i) 20-years or (ii) the original repayment term of the loan.

RESPONSE AND EXPLANATION OF CHANGE: The Department proposed this new subsection to clarify the procedures for when a CWSRF financed facility is sold. However, staff agree further clarification is needed. Therefore, the Department is adding the language from the comment, along with additional language not specified in the comment, to further clarify the procedures. A partial change has been made to this rule as a result of this comment.

COMMENT #6: Ms. Hirschvogel, with MPUA, requested that the Uniform Relocation and Real Property Acquisition Policies Act of 1970, as amended, only apply to projects that have been

deemed to be “equivalency” projects. Ms. Hirschvogel explained that making the equivalency cross-cutters apply to a smaller subset of projects would reduce regulatory burden and has the potential to increase the amount of eligible costs that can be funded through the CWSRF program. Ms. Hirschvogel requested that the Department consider adding language similar to what is being proposed in 10 CSR 60-13.020(C)(7) to develop a policy to exempt certain cross-cutter requirements for non-equivalency requirements.

RESPONSE: The Department disagrees that the Uniform Relocation and Real Property Acquisition Policies Act should only apply to projects that have been selected as equivalency per the federal Capitalization Grant. Federal Law (49 CFR-Title 49-Subtitle A-Subpart B-24.101(b)) states that the requirements of the Uniform Relocation and Real Property Acquisition Policies Act apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs except for the specific acquisitions. Therefore, recipients of CWSRF financing are required to comply with the Uniform Relocation and Real Property Acquisition Act if they want to be reimbursed for the property through the CWSRF program. The Department further does not support adding the language similar to what is being proposed in 10 CSR 60-13.020(C)(7) because developing a policy exempting certain cross-cutters would contradict federal law. Therefore, no changes were made as a result of this comment.

## 10 CSR 20-4.040 State Revolving Fund General Assistance Regulation

10 CSR 20-4.040(2)(F) Initiation of operation—The date when the first major constructed component is capable of being used for its intended purpose.

10 CSR 20-4.040(7)(C) For equivalency projects, the recipient and its contractors must comply with all requirements associated with funds provided under 40 CFR 35.3145.

10 CSR 20-4.040(14) Public Participation. Public participation must be preceded by timely distribution of information and occur sufficiently in advance of decision making to allow the recipient to assimilate public views into action. Public participation shall include the following:

10 CSR 20-4.040(16) User Charge and Sewer Use Ordinance. Recipients are required to maintain, for the useful life of the treatment works, user charge and sewer use ordinances approved by the department. User charge and sewer use ordinances, at a minimum, shall be adopted prior to financing and implemented by the initiation of operation of the financed wastewater treatment works.

10 CSR 20-4.040(17)(H) State Wage Determination. The bid documents shall contain the current prevailing wage determination issued by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards as established by sections 290.210 to 290.340, RSMo;

10 CSR 20-4.040(21)(B)(19) Water conservation projects that reduce demand for publicly owned water treatment works including water meters, water efficient appliances, education programs, and incentive programs; and

10 CSR 20-4.040(21)(B)(20) Planning and assessment activities including asset management plans, capital improvement plans, integrated planning, long-term control plans, water or energy audits, treatment works security and safety plans, or environmental management systems.

10 CSR 4.040(25)(B) During the loan repayment term, ownership of facilities, equipment, and real property purchased under the program with a current value in excess of five thousand dollars (\$5,000) may be transferred only with written permission of the department.

10 CSR 4.040(25)(C) If at any time after initiation of operations of the project, the wastewater treatment works funded with a CWSRF grant, or any part thereof, is sold, either outright or on contract for deed, to other than a political subdivision of the state, the state shall receive reimbursement of the grant funds. The total amount of grant funds to be reimbursed shall be based on a straight-line depreciation based on the original costs of the facilities being sold, the original loan repayment period or a 20-year straight-line depreciation schedule in the event of grant only funds, and adjusted for the percentage of grant funds originally disbursed to fund such facilities. Grant funds to be reimbursed shall become due and payable upon transfer of ownership.

10 CSR 4.040(26) Procurement of Design-Build Services. The procurement of design-build services shall be in accordance with section 67.5060, RSMo. Recipients that are exempt from

section 67.5060, RSMo may also utilize design-build services if local ordinances or policies allow design-build and the procurement of the design-build team considers both the qualifications of the team and the project selected meets the cost effectiveness requirements of subsection 10(B). Recipients seeking funds for a project utilizing design-build services must notify the department with the recipient's CWSRF application. Recipients that utilize design-build services shall coordinate procurement activities with the department to ensure compliance with CWSRF requirements. The department may restrict the amount of funding available for projects using design-build services, if needed to comply with federal law and regulations.

10 CSR 4.040(27) Plan of Study. Facility planning loans, not to exceed a five (5) year repayment term, or grants may be provided by the commission to applicants with an existing publicly owned wastewater system. Applicants that desire to receive a loan for facility planning must submit a plan of study. The plan of study should include the following information (generally in fifteen (15) pages or less):

10 CSR 4.040(27)(C) The nature and scope of planning, including a description of the need for the project, and facilities planning tasks and schedule; and

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**ORDER OF RULEMAKING**

By the authority vested in the Clean Water Commission under section 644.026, RSMo. 2016, the Commission amends a rule as follows:

**10 CSR 20-4.041 Direct Loan Program is amended.**

A notice of the proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1609-1611). No changes have been made to the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the Department's Financial Assistance Center staff provided testimony on the proposed amendment. The Department received one comment during the public comment period and staff identified two (2) typographical and grammatical errors.

COMMENT #1: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the red tape reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have been made: language was changed in Section (5) and in Section (6), Subsection (A) to retain the word "shall" in order to clarify the Department's obligation.

COMMENT #2: Staff identified typographical and grammatical errors in the following sections:  
(8) "(8)(A)-(E)" should be "(8)(A)-(D)"; and  
(9) ".5% for" should be ".5% of the outstanding loan balance for".

RESPONSE AND EXPLANATION OF CHANGE: Staff is correcting the errors.

## 10 CSR 20-4.041 Direct Loan Program

10 CSR 20-041(5) The department shall use the target interest rate (TIR) policy as established by the commission under section (4) of 10 CSR 20-4.040.

10 CSR 20-041(6)(A) The maximum reimbursement shall be no more than the sum of all eligible costs incurred to date. Each payment request shall include the information listed in the following paragraphs (6)(A)1.–3. and other information deemed necessary by the department to insure proper project management and expenditure of public funds:

10 CSR 20-041(8) Amortization Schedules. The guidelines contained in the following subsections (8)(A)–(D) are to be used to establish amortization schedules under this rule:

10 CSR 20-041(9) Loan Fees. The department may charge annual loan fees not to exceed one-half percent (.5%) of the outstanding loan balance for state direct loans. CWSRF direct loan recipients will be charged a fee on the loan in accordance with 10 CSR 20-4.040(5).

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**ORDER OF RULEMAKING**

By the authority vested in the Clean Water Commission under section 644.026, RSMo. 2016, the Commission rescinds a rule as follows:

**10 CSR 20-4.042 Leveraged Loan Program is rescinded.**

A notice of the proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1611). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed rescission was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the Department's Financial Assistance Center (FAC) provided testimony on the proposed rescission. No comments were received.

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**ORDER OF RULEMAKING**

By the authority vested in the Clean Water Commission under section 644.026, RSMo. 2016, the Commission amends a rule as follows:

**10 CSR 20-4.050 Environmental Review is amended.**

A notice of the proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1611-1615). No changes have been made in the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the Department's Financial Assistance Center provided testimony on the proposed amendment. One typographical error was identified by the Department, one comment was received at the public hearing and the Department received 19 additional comments during the public comment period.

COMMENT #1: Department staff identified a grammatical error in Section (5) Subsection (A). The language was written as "When the director has determined that an recipient's proposed project may be excluded from a formal environmental review, the director will prepare a determination to categorically exclude the project."

RESPONSE AND EXPLANATION OF CHANGE: "An" was changed to "a" in Section (5) Subsection (A) to correct the error.

COMMENT #2: Mr. Robert Brundage, Newman, Comley and Ruth made a comment at the public hearing regarding the red tape reduction work. He characterized the department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE AND EXPLANATION OF CHANGE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review the following changes have

been made: language was changed in Section (4), Subsection (B), Paragraph 2, in order to clarify the Department's obligation.

COMMENT #3: Karen Lux, Kathleen Dolson, Francine Glass, Stacy Cheavens, Tyler Harrison, Paulette Zimmerman, C. Wulff, Dana Gray, Laurie Lakebrink, Denise Baker, Barry Leibman, Joyce Wright, Tom Abeln, Arlene Sandler, Jeanne Heuser, and Maisah Khan with Missouri Coalition for the Environment (MCE) commented that changes to this rule could remove language about the requirements for public hearings and public access to documents related to new projects. All commenters requested the Department does not change 10 CSR 20-4.050.

RESPONSE AND EXPLANATION OF CHANGE: The change to 10 CSR 20-4.050(4)(B)2 does not remove the requirement that a recipient advertise and host a forum for public participation or remove public access to documents. Per the amendment, it will allow the recipient to choose to host either a public hearing or a public meeting advertised at least thirty days in advance in the local newspaper of general circulation. The amendment does propose to remove the requirement that the recipient send "a notice of the public hearing and availability of the documents to all local, state and federal agencies and public and private parties that may have an interest in the proposed project." However, interested parties will be made aware of the meeting through the newspaper advertisement, and may access documents by attending the meeting or by contacting the Department to request such documents." Changes to this rule are being made for clarification.

COMMENT #4a: Caroline Pufalt, Sierra Club MO commented that she opposed removing the language about the requirements for public hearings and public access to documents related to new projects.

RESPONSE: The change to 10 CSR 20-4.050(4)(B)2 does not remove the requirement that a recipient advertise and host a forum for public participation or remove public access to documents. Per the amendment, it will allow the recipient to choose to host either a public hearing or a public meeting advertised at least thirty days in advance in the local newspaper of general circulation. The amendment does propose to remove the requirement that the recipient send "a notice of the public hearing and availability of the documents to all local, state and federal agencies and public and private parties that may have an interest in the proposed project." However, interested parties will be made aware of the meeting through the newspaper advertisement, and may access documents by attending the meeting or by contacting the Department to request such documents." Changes to this rule are being made for clarification.

COMMENT #4b: Ms. Pufault further commented on 10 CSR 20-4.050(7) stating that the Department should evaluate the environmental reviews accepted by other agencies to make sure it considers all relative issues.

RESPONSE: All agencies that provide federal funds, such as those offering Community Development Block Grants and U.S. Department of Agriculture funds are subject to the provisions of the National Environmental Policy Act of 1969, as amended (NEPA), which established national policies, goals, and procedures for protecting, restoring and enhancing environmental quality. Thus, all environmental reviews accepted by DNR than have been

approved by another agency will comply with NEPA. This amendment allows a recipient planning a project co-funded through the State Revolving Fund and one of the named entities to avoid duplication of effort and unnecessary increased cost. No changes have been made to this rule as a result of these comments.

COMMENT #5: A comment was made anonymously stating difficulty finding rule text.

RESPONSE: During the comment period time, the proposed rule was located on the DNR Web page, along with all other proposed amendments, through a link titled "Rules in Development" under the main tab "Laws and Regulations", it was published in the Missouri Register dated July 16, 2018, and a copy was linked in the Department's Regulatory Action Tracking System. No changes have been made to this rule as a result of these comments.

**10 CSR 20-4.050(4)(B)**

2. Prior to the recipient's adoption of the facilities plan, the recipient must hold a public meeting or hearing on the proposed project and the EID, and provide the director with a complete record of the meeting or hearing, including all EID reference documents. The meeting or hearing must be advertised at least thirty (30) days in advance in a local newspaper of general circulation. Included with the meeting record must be a list of all attendees with addresses, any written testimony and the recipient's responses to the issues raised.

**10 CSR 20-4.050(5)**

(A) When the director has determined that a recipient's proposed project may be excluded from a formal environmental review, the director will prepare a determination to categorically exclude the project.

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**ORDER OF RULEMAKING**

By the authority vested in the Clean Water Commission under section 644.026, RSMo. 2016, the Commission amends a rule as follows:

**10 CSR 20-4.061 Storm Water Grant and Loan Program is amended.**

A notice of the proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1615-1618). Changes to the proposed amendment are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on this proposed amendment was held August 15, 2018, and the public comment period ended August 23, 2018. At the public hearing, the Department's Financial Assistance Center (FAC) staff provided testimony on the proposed amendment. The Department received one comment at the Public Hearing, one comment during the public comment period, the Department identified one paragraph that needed to be deleted and one grammatical error.

COMMENT#1: Mr. Robert Brundage, Newman, Comley, and Ruth made a comment at the public hearing regarding the Red Tape Reduction work. He characterized the Department's removal of the word "shall" in its rules as camouflage rather than reduced regulatory burden, and requested staff make rule language less awkward if there has been more than a thirty percent reduction.

RESPONSE: This general comment relates to multiple proposed rules. Regarding process, the goal of Red Tape Reduction has been to reduce regulatory burdens. The department's proposed changes were informed by stakeholder engagement, in some cases over multiple years, and have reduced unnecessary requirements. The effort has not centered around a single word choice, although the word "shall" has been removed when deleting duplication with statute, rescinding, reorganizing and re-writing a rule, or revising language to clarify (not camouflage) responsibilities. Staff did review this rule relative to whether intended language was used to reflect the nature of an obligation, not with a focus on a particular word as suggested by this comment. Based on this review no changes have been made.

COMMENT #2: A comment was made anonymously stating difficulty finding rule text.

RESPONSE: During the comment period time, the proposed rule was located on the DNR Web page, along with all other proposed amendments, through a link titled "Rules in Development" under the main tab "Laws and Regulations", it was published in the Missouri Register dated July 16, 2018, and a copy was linked in the Department's Regulatory Action Tracking System. No changes have been made to this rule as a result of these comments.

COMMENT #3: In Section (5), Subsection (B), Paragraph 12, the Department staff discovered the paragraph needed to be deleted since we no longer administer grant anticipation loans.

RESPONSE AND EXPLANATION OF CHANGE: The Department is deleting the paragraph as a result of this comment.

COMMENT #4: Staff found grammatical errors in (14), “storm water” should be “storm water loan” in two places.

RESPONSE AND EXPLANATION OF CHANGE: Staff is correcting the errors.

## 10 CSR 20-4.061 Storm Water Grant and Loan Program

10 CSR 4.061(5)(B)12. The following language from Paragraph 12 is deleted: “One hundred percent (100%) of the reasonable costs of a grant anticipation loan will be eligible. Departmental approval must be obtained prior to securing the grant anticipation loan. Grant anticipation loan costs will be approved when the loan is needed for cash flow purposes for the period between the receipt of the letter of commitment and the first receipt of funds by the grantee. The approved costs of a grant anticipation loan will not increase the approved grant amount.”

10 CSR 4.061(14) Storm Water Loan Revolving Fund. Storm water grants and loans may be awarded from the storm water loan revolving fund as funds are available. Eligible applicants must be a municipality, county, public sewer district, public water district, or a combination of the same. Except for subsections (3)(A)–(C), all provisions of this regulation apply to grants and loans made from the storm water loan revolving fund.